

BOSTON REDEVELOPMENT AUTHORITY

REPORT AND DECISION ON THE APPLICATION OF BLAKE ESTATES ASSOCIATES FOR THE AUTHORIZATION AND APPROVAL OF A PROJECT UNDER MASSACHUSETTS GENERAL LAWS (TER. ED.) CHAPTER 121A AS AMENDED, AND CHAPTER 652 OF THE ACTS OF 1960, TO BE UNDERTAKEN AND CARRIED OUT BY A LIMITED PARTNERSHIP FORMED UNDER M.G.L. CHAPTER 109, AND APPROVAL TO ACT AS AN URBAN REDEVELOPMENT LIMITED PARTNERSHIP UNDER SAID CHAPTER 121A.

A. The Hearing. A public hearing was held at 2 p.m. on December 14, 1978, in the offices of the Boston Redevelopment Authority (hereinafter called the "Authority"), at the New City Hall, Room 921, Boston, Massachusetts 02201, by the Authority on an Application, dated November 13, 1978, (hereinafter called the "Application"), filed by Blake Estates Associates, for authorization and approval of a redevelopment project under Chapter 121A of the General Laws of the Commonwealth of Massachusetts and Chapter 652 of the Acts of 1960, as amended, (hereinafter called the "Project"), due notice of said hearing having been given previously by publication on November 29, 1978, and December 6, 1978, in the Boston Herald American, a daily newspaper of general circulation published in Boston, and mailing postage prepaid in accordance with Rule 4 of the Rules and Regulations of the Authority for securing approval of Chapter 121A projects, and in accordance with the provisions of Section 13 of Chapter 652 of the Acts of 1960, as amended. Robert L. Farrell, Chairman of the Authority, James G. Colbert, Joseph J. Walsh, James K. Flaherty and James E. Cofield, Jr., members of the Authority, were present at the hearing.

B. The Project. The Project Area consists of 4.647 acres of vacant land, known as 1344 Hyde Park Avenue. Industrial buildings which formerly existed on the Project Area were razed and torn down in 1973. The present owner of the project is Seimens-Allis, Inc., which has executed a Purchase and Sale Agreement

with Norman B. Leventhal. The Project Area is bounded on the southwesterly corner by Hyde Park Avenue, more fully described in the metes and bounds description, Appendix #19 of the Application.

The Project consists of acquisition, construction, operation, and maintenance of a 2½ story building by the 121A Entity of 175 units of housing for senior citizens of the Hyde Park community. 90% of the units in the proposed Project will receive rental assistance under the Section 8 program, being Section 8 of the U. S. Housing Act of 1937, as amended.

All of the units will be one-bedroom units and nineteen (19) will be specially designed for occupancy by physically handicapped persons. The appurtenant facilities will include community spaces, library, billiards room, crafts room, laundry facilities, and open off-street parking for approximately 35 cars.

C. Authority Action. In passing upon the Application, the Authority has considered the Application itself, all documents, plans and exhibits filed therewith or referred to therein, the oral evidence presented at the hearing, the exhibits offered in evidence at the hearing, and arguments and statements made at the hearing.

The Project as defined in the Application, constitutes a Project within the meaning of Section 1 of Chapter 121A of the General Laws, providing as it does, for the purchase, construction and maintenance in a blighted, open, decadent or substandard area of a decent, safe and sanitary residential building and appurtenant facilities.

D. Project Area. The Project Area is located in Hyde Park, for which the City's Master Plan calls for the preservation of residential neighborhoods and increasing the quantity and quality of all types of housing. In the opinion of the Applicant the Project Area is a blighted, open and decadent area as defined in Chapter 121A,

detrimental to the safety, health, morals, welfare and sound growth of the community by virtue of the fact that the Project Area was the site of industrial buildings which were razed and torn down in 1973. The Project Area consists of a vacant, partially fenced off parcel of land, bald of significant vegetation, partially covered with unused, deteriorating pavement, and littered with demolition debris. Remnants of the massive foundations from former buildings protrude throughout the site, and remain randomly intact as remnants of the burned out structures bulldozed down five years ago. Further, the site is now heavily littered with trash, broken glass, dust, and filth which continues to increase as time goes on.

The combination of the above conditions is detrimental to the sound growth of the community. Rather than providing a stable anchor for the surrounding residential neighborhood, the site remains vacant, unsightly, dangerous, unsanitary, and a breeding ground for delinquency. And rather than adding vitality and activity to the small businesses and shops of Cleary Square, the vacant condition of the site greatly reduces the tax revenue - producing potential of the site and general area.

The Project is detrimental to the health, safety and sound growth of the Community for the reasons stated above and are conditions which have not, and in the opinion of the Applicant, will not be remedied by the ordinary operations of private enterprise.

Without the aids available under G.L. Chapter 121A as is evidenced by the requirement of the mortgage lender attached to the Application, that the real estate taxes be limited to contain percentages of the project's estimated gross annual income, which percentage levels can only be lawfully agreed to by the City of Boston under G.L. Chapter 121A and Chapter 6A, the site would not be developed. These conditions and other factors referred to in the Application and this Report and Decision warrant the carrying out of the Project in accordance with Chapter 121A. The proposal constitutes a "project" within the meaning of that statute.

For these reasons it is found that the Project Area is a blighted open and decadent area within the meaning of Chapter 121A, as amended. It is unlikely that the conditions will be remedied by the ordinary operations of private or public enterprise.

The Project will provide substantial financial return to the City of Boston. The 6A Tax Agreement attached to the Application sets forth the Agreement to be entered into between the City of Boston and the Applicants. This Agreement provides in substance that there be paid to the City of Boston in lieu of real estate taxes in each of the forty (40) calendar years after approval of the Project.

During construction, the owner will pay twenty thousand dollars (\$20,000) per year. For the two calendar years and following completion of the Project, 10% of residential income from the Project plus an additional 2% of residential income, from the Project, if and to the extent said additional taxes will not create an operating loss. The General Partners individually agree to make up any deficit in the additional 2% of residential income from the Project, to the extent that the payment of such sum by the Applicant would create an operating loss for it. Said undertaking by the General Partners is limited to \$17,500 per year for each of the two calendar years next following completion of the Project. Thereafter, 13% of residential income from the Project for the term of the 6A contract, which percentage shall escalate 1% every three years thereafter, to a maximum of 15% of Residential income from the Project. Any increase over 12% is conditioned upon approval and funding of a special rent adjustment therefor by HUD, pursuant to regulations and statute of HUD governing Section 8 Rental Assistance Programs.

E. Cost of the Project. In the opinion of the Authority, the cost of the Project has been realistically estimated in the Application and the Project is practicable. The estimated cost of approximately Six Million Three Hundred Thirty Thousand Three Hundred and Thirty-Three (\$6,330,333.00) Dollars. Both the construction and permanent mortgage loans for the Project will be by MFHA for 90% of the cost, or Five Million Six Hundred and Ninety-Seven Thousand, Three Hundred Dollars (\$5,697,300). The Applicant currently holds a conditional commitment from MFHA for such loans. The construction loan will be at an estimated interest rate of 7%, and the permanent loan interest rate estimated at 9% including amortization and MFHA financing fees.

The MHFA insured mortgage loan will be in an amount equal to 90% of the Replacement Cost of the Project as determined by MHFA. The balance of the cost of the Project will be borne by the 121A Entity. Included therein is a Developer's Fee of Five Hundred and Fifty-Five Thousand, Two Hundred and Thirty-Six Dollars (\$555,236) and a portion of the value of the Project land of Seventy Seven Thousand Seven Hundred and Ninety Seven Dollars (\$77,797.). The total land value is Two Hundred and Twenty-Two Thousand, Seven Hundred and Twenty-Seven (\$222,727) Dollars. Capital will be raised by the 121A Entity through the admission of limited partners in exchange for capital contributions.

The following are all the persons, natural or corporate, who have or will have, directly or indirectly, any beneficial interest in the Project prior to its completion:

Blake Estates Associates, a Massachusetts Limited Partnership;

General Partners: Norman B. Leventhal
Edwin N. Sidman

Limited Partners: Alan M. Leventhal
Mark S. Leventhal
Robert J. Perriello
Lawrence D. Selkovits
Paula L. Sidman
Harvey Steinberg

Massachusetts Housing Finance Agency;

United States Department of Housing and Urban Development;

The Project will be assisted by rental assistance under Section 8 of the U.S. Housing Act of 1937, as amended, for no less than 90% of the units. Under the Section 8 Program, HUD pays that amount of the fair market rent for an apartment that exceeds 25% of the tenant's income. The Application contains the Corporate Articles of Organization for the Copley Place Associates I and the First Amendment to said Agreement, changing the Limited Partnership name to Blake Estates Associates. The Articles illustrate the corporate purposes and structure. Experience with similar financing and organization methods persuades the Authority that the financial program is realistic.

F. Consistency with Master Plan. The Project does not conflict with the Master Plan for the City of Boston.

G. Effect of the Project. The Project will not be in any way detrimental to the best interests of the public or the City or to the public safety or convenience or be inconsistent with the most suitable development of the City. The Project will, in fact, forward the best interests of the City and will constitute a public use and benefit. The structure to be built on the Project Site has been reviewed by the Design Review Staff of the Authority and is subject to further design review should the proposed design change in any way. The Authority finds that this Project will enhance the general appearance of the Area and will furnish attractive and necessary landscaping.

The carrying out of the Project will not involve the relocation of any families.

The Project Area does not include land within any location approved by the State Department of Public Works for the extension of the Massachusetts Turnpike into the City of Boston.

H. Environmental Considerations. To conform with the provisions of Section 6 of Chapter 30 of the General Laws (as inserted by Chapter 781 of the Acts of 1972) and the Regulations thereunder as adopted by the Authority on April 11, 1974, the Project must comply with the City of Boston Air Pollution Control Commission's Regulations for the Control of Noise during all phases of construction activities.

The Project is in compliance with the environmental review standards set forth below and must further comply with all provisions as set forth in the Boston Conservation Commission, Form 4, File #6-99 as attached hereto as Exhibit B.

1. The Project does not adversely affect any recreational area or any aesthetic values in the surrounding areas.
2. No natural or man-made places are adversely affected by the Project.
3. The Project does not adversely affect archeological or historical structures or features.
4. The Project does not affect the potential use, extraction or conservation of a scarce natural resource.
5. The Project Area is urban and therefore does not serve as a habitat for wildlife or fish species.
6. Being urban, the Project has no impact on any wilderness areas.

7. The Project will require deviations from the Zoning Code of the City of Boston as further detailed herein, but not in such manner as will cause damage to the environment.
8. The Project does not require certification, authorization or issuance of a permit by any local, State or Federal environmental control agency.
9. The Project does not involve the disposal of potentially hazardous materials.
10. The Project does not involve the construction of facilities in a flood plain.
11. The Project, except necessarily during the construction phase, does not result in the generation of a significant amount of noise or dust.
12. The Project does not result in a deleterious effect on the quality of any portion of the State's air or water resources.
13. The Project does not adversely affect an area of important scenic value.

As a result of the investigation and Report of the Authority's staff and of its own knowledge, the Authority hereby determines that the Project will not cause significant environmental damage and that the Secretary of the Authority be instructed to file such with said Executive Office of Environmental Affairs its Report and finding in accordance with the Authority's Rules and Regulations.

I. Minimum Standards. The minimum standards for financing, construction, maintenance and improvement of the Project as set forth in Appendix Item 16 filed with and attached to the Application, are hereby adopted and imposed as Rules and Regulations (in addition to those hereinafter adopted and imposed) applicable to this Project for the same period as the Project is subject to the provisions of Chapter 121A of the General Laws and Chapter 652 of the Acts of 1960, as amended.

In addition to the minimum standards set forth in Appendix Item 16, the Authority hereby requires that the Applicants, prior to obtaining a building permit, (1) enter into a Regulatory Agreement with the Authority pursuant to the requirements of General Laws, Chapter 121A, Section 18C, and containing such other terms and conditions as the Authority may in its discretion deem necessary and appropriate; (2) submit to the Authority for its review and approval such plans and specifications for the Project as the Authority may require and accept such changes and modifications thereto as the Authority may deem necessary or appropriate; and (3) adhere to such design review controls and requirements as the Authority may in its discretion impose.

The carrying out of the Project will not require a permit for the erection, maintenance and use of a garage within 500 feet of one or more buildings occupied in whole or in part as a public or private school having more than 50 pupils, or as a public or private hospital having more than 25 beds, or as a Church.

The Project does not require a declaration that the buildings contemplated constitute a separate building for the purpose of General Laws, Chapter 138.

J. Zoning and Building Code Deviations. Proposed Deviations filed with and attached to the Application lists the zoning deviations requested. For the reasons set forth in the Application and the evidence presented at the hearing, the Authority hereby finds that the attached zoning deviations, attached hereto and incorporated by reference as Exhibit A, are necessary for the carrying out of the total project and therefore granted without substantially derogating from the intent and purposes of the applicable laws, codes, ordinances and regulations, respectively.

K. Duration of Period of Tax Exemption. In addition to the base term of fifteen (15) calendar years for the Project's period of tax exemption, pursuant to the provisions of section 10 of Chapter 121A, as amended by Chapter 827 of the Acts of 1975, the Authority hereby determines that the Project shall be entitled an extension of twenty-five (25) years beyond the base period. This determination is based upon the fact that the Applicant's Project is financed and subsidized under Federal programs to assist the construction of low-income housing.

L. Decision. For all the reasons set forth in the foregoing report, the Authority hereby approves the undertakings by the Applicant of the Project pursuant to Chapter 121A of the General Laws and Chapter 652 of the Acts of 1960, subject to the provisions set forth in this Report and Decision.

EXHIBIT A

ZONING DEVIATIONS

1. Deviations From State Building Code:

No deviations from the Massachusetts State Building Code are requested.

2. Deviations From Boston Zoning Code:

The following deviations from the Boston Zoning Code are hereby requested as part of the 121A approval:

a. Section 8-7, Use Item No. 7:

Multi-family dwellings is conditional use in M-1 Zone.

Deviation Requested: Multi-family dwellings use in M-1 Zone is requested.

b. Section 8-7, Use Item No. 71:

Ancillary use is conditional use in M-1 Zone. Applicant intends to use an adjacent lot (Phase II), which will be owned by an entity affiliated with the Applicant, for parking.

Deviation Requested: Ancillary use for parking to be located on adjacent lot (Phase II) in M-1 Zone is requested.

c. Section 18-1:

Front yard of 20' is required in M-1 Zone.

Deviation Requested: The required front yard is provided along Hyde Park Avenue, however, in three areas along the boundary between Phase I and Phase II, only a 10' yard is provided in front of building lines which are parallel to Hyde Park Avenue.

d. Section 19-1:

Side yards of 10' are required in M-1 Zone adjacent to an R Zone.

Deviation Requested: All side yard requirements are met, except along the boundary between Phase I and

Phase II. In two areas along this boundary no side yard is provided, as a continuation of the proposed building is proposed in the immediate future. Further, Applicant has reserved in perpetuity a 10' restriction corresponding to the side yard requirement adjacent to the building in these two areas, which prohibits construction of any structure except a continuation of the proposed building within said 10' restriction area.

e. Sections 20-1 and 20-6:

Rear yard of 40' is required where rear lot line abuts R-5 District, except where building is not parallel to rear lot line, where 30' is required.

Deviation Requested: Where building is not parallel to rear lot line, no less than 8' rear yard is provided, as shown on the Project drawings. Where building is parallel to rear lot line, no less than 10' is provided.

f. Section 23-1:

Off-street parking ratio of .9 spaces for each dwelling unit or 158 parking spaces is required.

Deviation Requested: Off-street parking ratio of .2 spaces for each dwelling unit or 35 parking spaces is provided. Section 23-1 of the Boston Zoning Code allows a parking ratio of .2 spaces for each dwelling unit for housing projects for elderly persons of low income when constructed by the Boston Housing Authority. Proposed Project, though not to be constructed by the Boston Housing Authority, is for elderly persons of low income.

g. Section 23-8:

Requires off-street parking facilities to be located on same lot as the main use to which it is accessory.

Deviation Requested: Accessory parking to be located on adjacent lot (Phase II). A perpetual parking easement in Phase II for the benefit of Phase I is provided.

h. Section 13-1, Table B:

Specifies a maximum building height of 35' and 2- $\frac{1}{2}$ stories in an M-1 Zone.

FORM 4

ORDER OF CONDITIONS

WETLANDS PROTECTION ACT

G.L. C. 131, s. 40

CITY/TOWN Boston

FILE NUMBER 6-99

TO: NAME Blake Estates Associates

ADDRESS P.O. Box 1016
Boston, MA.

CERTIFIED MAIL NUMBER Delivered by Hand

PROJECT LOCATION:

Address 1344 Hyde Park Avenue Hyde Park, MA. 02132

Recorded at Registry of Suffolk County, Book 9026, Page 39.

Certificate (if registered) _____

REGARDING:

Notice of Intent dated November 10, 1978

and plans titled and dated "Blake Estates - Site Grading Plan" and "Erosion Control Plan", Dated September 5, 1978

THIS ORDER IS ISSUED ON(date) December 13, 1978

Pursuant to the authority of G.L. c. 131, s. 40, the Boston Conservation Commission has reviewed your Notice of Intent and plans identified above, and has determined that the area on which the proposed work is to be done is significant to one or more of the interests listed in G.L. c. 131, s. 40. The Commission hereby orders that the following conditions are necessary to protect said interests and all work shall be performed in strict accordance with them and with the Notice of Intent and plans identified above except where such plans are modified by said conditions.

CONDITIONS

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this order.
2. This order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state or local statutes, ordinances, by-laws and/or regulations.
4. The work authorized hereunder shall be completed within one (1) year from the date of this order unless it is for a maintenance dredging project subject to Section 5(9). The order may be extended by the issuing authority for one or more additional one-year periods upon application to the said issuing authority at least thirty (30) days prior to the expiration date of the order or its extension.

5. Any fill used in connection with this project shall be clean fill, containing no trash, refuse, rubbish or debris, including, without limiting the generality of the foregoing, lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles or parts of any of the foregoing.
6. No work may be commenced until all appeal periods have elapsed from the order of the Conservation Commission or from a final order by the Department of Environmental Quality Engineering.
7. No work shall be undertaken until the final order, with respect to the proposed project, has been recorded in the Registry of Deeds for the district in which the land is located within the chain of title of the affected property. The Document number indicating such recording shall be submitted on the form at the end of this order to the issuer of this order prior to commencement of work.
8. A sign shall be displayed at the site not less than two square feet or more than three square feet bearing the words, "Massachusetts Department of Environmental Quality Engineering. Number 6-99".
9. Where the Department of Environmental Quality Engineering is requested to make a determination and to issue a superseding order, the Conservation Commission shall be a party to all agency proceedings and hearings before the Department.
10. Upon completion of the work described herein, the applicant shall forthwith request, in writing, that a Certificate of Compliance be issued stating that the work has been satisfactorily completed.
11. The work shall conform to the following described plans and additional conditions:
"Blake Estates - Site Grading Plan" and "Blake Estates - Soil Erosion Control Plan" dated September 5, 1978 (2 sheets) and also in accordance with "Conservation Restriction" submitted at hearing date and attached. "Conservation Restriction Plan Hyde Park Ave. Boston, Mass " dated November 17, 1978 (1 Sheet).
12. Any change in the plans shall require the applicant to file a new Notice of Intent or to inquire of the Commission, in writing, whether the change is substantial enough to require a new filing.
13. Prior notification and approval, are required by the Boston Conservation Commission of the disposal site used by the contractor for the material and debris removed from the site.
14. No material or debris resulting from this work shall be deposited or allowed to accumulate as debris in the waters of the Mother Brook or any other than an approved dumping site.
15. The banks of Mother Brook shall be kept clean of debris at all times
16. All construction shall be designed in compliance with HUD Flood regulations irrespective of whether said regulations would be applicable because of the financing of the project. This applies to the parts of the project in flood prone areas.
17. No work shall commence until all necessary permits have been obtained.
18. Upon completion of this project the applicant will submit to the Commission an affidavit signed by a qualified Massachusetts registered engineer certifying all work as being in compliance with the permit and above stated plans.

The applicant, any person aggrieved by this order, any owner of land abutting the land upon which the proposed work is to be done, or any ten residents of the city or town in which such land is located, are hereby notified of their right to appeal this order to the Department of Environmental Quality Engineering provided the request is made in writing and by certified mail to the Department within ten (10) days from the issuance of this order.

ISSUED BY Boston Conservation Commission

John Lewis J. Lewis
William A. Straight W. A. Straight
Robert E. Holland R. Holland
William Smith Wm. Smith

On this 13th day of December 1978, before me personally appeared Robert E. Holland to me known to be the person described in, and who executed, the foregoing instrument and acknowledged that he executed the same as his free act and deed.

Kenneth L. Phala My Commission expires May 28, 1982

DETACH ON DOTTED LINE AND SUBMIT TO THE ISSUER OF THIS ORDER PRIOR TO COMMENCEMENT OF WORK.

TO _____ (Issuing Authority)

PLEASE BE ADVISED THAT THE ORDER OF CONDITIONS FOR THE PROJECT AT _____,

FILE NUMBER _____, HAS BEEN RECORDED AT THE REGISTRY OF _____,

ON (DATE) _____.

If recorded land, the instrument number which identifies this transaction is _____.

If registered land, the document number which identifies this transaction is _____.

Signed _____
Applicant

CONSERVATION RESTRICTION

BLAKE ESTATES ASSOCIATES ("Grantor") a Massachusetts Limited Partnership with its principal place of business at One Center Plaza, Boston, Suffolk County, Massachusetts, grants without covenants and without charge or fee therefor, to the CITY OF BOSTON acting by and through the CONSERVATION COMMISSION of the CITY OF BOSTON ("Grantee") established under M.G.L. C. 40, s. 8c, a permanent conservation restriction on two parcels of land (said two parcels being hereinafter called the "Land") located in said Boston, described in Exhibit "A" hereto annexed and made a part hereof, and shown as "Area 1" and "Area 2" on a plan (the "Plan") entitled "Conservation Restriction Plan, Hyde Park Avenue, Boston, Mass." drawn by R. E. Cameron & Associates, Inc. dated November 17, 1978 to be recorded herewith in the Suffolk County Registry of Deeds.

The central purpose of the conservation restriction hereby granted is to maintain the restricted Land predominantly in its natural state in perpetuity (except as herein otherwise provided). In furtherance of this purpose, Grantor agrees not to perform the following acts and agrees not to authorize others to perform them, and hereby grants the City of Boston acting by and through the Conservation Commission of the City of Boston the right to enforce those restrictions against all persons:

1. Subject to the provisions of Paragraph numbered 5 below, no building, outdoor advertising display, mobile home, or other temporary or permanent structure shall be constructed, placed or permitted to remain on the restricted Land.

2. Except as incidental or pursuant to the rights reserved in Paragraph numbered 5 hereof, (a) no soil, loam, peat, gravel, sand, rock, or other mineral substance, and (b) no ash, refuse, trash, vehicle bodies or parts, rubbish, debris, building rubble, junk, waste or other non-earth material shall be placed, parked, stored, or dumped on the restricted Land.

3. No loam, peat, gravel, sand, rock, or other natural deposit shall be excavated or removed from said Land except as incidental or pursuant to the rights reserved in Paragraph numbered 5 hereof.

4. No trees, grasses, or other vegetation shall be cut or removed or otherwise destroyed on said Land except as incidental or pursuant to the rights reserved in Paragraph 5 hereof.

5. Notwithstanding anything contained in Paragraphs 1 through 4 above, Grantor reserves to itself, its successors and

assigns the right to conduct or permit any and all of the following activities and operations within and upon the restricted Land:

- (a) On that part of the Land shown on said Plan as "Area 2", to construct, occupy, operate, maintain, repair and (in the event the same are damaged or destroyed by fire or other casualty) rebuild and/or restore the buildings, structures, and improvements ("Initial Improvements") to be initially constructed as part of "Blake Estates" - Section I (or Phase I), Massachusetts Housing Finance Agency Project No. 78-029-N.
- (b) To erect, maintain, repair and replace from time to time fencing along and on either or both sides of Mother Brook.
- (c) To install, maintain, repair and replace from time to time landscaping, landscaping amenities, pedestrian walkways and paths and appurtenances thereto on the restricted Land.
- (d) To plant, cultivate and harvest vegetables, grains, grasses, ferns, flowers, fruits, nuts, trees, shrubs, and other vegetation (collectively called "vegetation") on the Land; to mow the grass thereon; to selectively cut, uproot and prune trees, vines shrubs, and other vegetation thereon; to prevent vegetation disease; and generally to improve and maintain such vegetation on the Land and to perform any other functions incidental to such maintenance which Grantor deems necessary or desirable.
- (e) To install, maintain, repair and replace underground utilities.
- (f) To permit the Metropolitan District Commission ("MDC") and/or other governmental authority(ies) to enter upon the Land to perform flood control and related work which the MDC or such other authority(ies) determines to be necessary or desirable.

AND

- (g) To make any other use of the Land not herein expressly forbidden and not in conflict with the central purpose of this Agreement.

6. The foregoing restrictions are authorized by M.G.L. C. 184, s. 31-33, for the purpose of maintaining said Land predominantly in a natural, scenic, green, and open condition (except as herein otherwise provided) and to protect the natural and watershed resources of the City of Boston. The restrictions shall be administered by the Conservation Commission of the City of Boston established under M.G.L. C. 40, s. 8C.

7. The conservation restrictions above set forth do not (and nothing contained herein shall) include or grant either the City of Boston or the public any right to enter said Land except for the following easements in that part of the Land shown on said Plan as Area 1, which are hereby granted by Grantor without covenants and without charge or fee therefor:

- (a) Grantor grants to the City of Boston a permanent easement of access to enter upon Area 1 from time to time at reasonable times, by its Conservation Commission or the designees of such Commission for the purpose of inspecting both Area 1 and Area 2 and enforcing in both Areas the foregoing restrictions and remedying any violation thereof. The right hereby granted shall be in addition to any other remedies available to the City for the enforcement of the foregoing restriction.
- (b) Grantor grants to the City of Boston a permanent easement to enter upon Area 1 from time to time at reasonable times, by its Conservation Commission or the designees of such Commission to plant, selectively cut or prune trees, brush or other vegetation; to implement disease prevention measures; and generally to maintain Area 1 in a neat and pleasing appearance - all at the sole cost and expense of the City of Boston. Provided however, said right of entry shall not be exercisable unless and until Grantor (its successors or assigns) fails to perform any such maintenance within thirty (30) days after written notice from the Conservation Commission of the City specifying the maintenance needed to be performed.

- (c) Grantor grants to the City of Boston and its inhabitants a permanent easement to pass and repass on foot at their own risk upon Area 1. Nothing in this subparagraph (c) contained shall be construed as creating any right in the Grantee or the public to do anything in Area 1 other than to pass and repass on foot at their own risk.

Nothing contained in this Paragraph 7 shall impose any affirmative duty upon the City of Boston, its Conservation Commission or the designees of either to maintain or care for the restricted Land or any part thereof.

Nothing contained in this Paragraph 7 shall give the City of Boston, its Conservation Commission or anyone acting by, through or under either of them the right to lay out or maintain any paths or other facilities upon the Land or any part thereof.

8. Except as expressly and specifically set forth in this Agreement, nothing herein contained shall impose upon the Grantor, its successors or assigns any obligation to do or to require to be done any affirmative act other than what would be required if the foregoing conservation restrictions were not granted.

9. Grantor is making the herein grants and restrictions in reliance upon, and with the intent to receive the benefit of, the provisions of M.G.L. C. 21, s. 17C; accordingly, whereas Grantor is permitting the public to pass and repass upon Area 1 on foot at their own risk (as aforesaid) and whereas Grantor is granting to the City of Boston (acting by its Conservation Commission or its designees) certain easements to enter upon Area 1 (as set forth in subparagraphs (a) and (b) of Paragraph 7 above) all without imposing a charge or fee therefor, Grantor shall not be liable to any member of the public or to any representative of the City who enters upon Area 1 for the aforesaid purposes for injuries to person or property sustained by him while on Area 1 in the absence of willful, wanton or reckless conduct by Grantor, nor shall such permission to so enter upon Area 1 be deemed to confer upon any person entering thereon the status of an invitee or licensee to whom any duty would be owed by Grantor.

10. The easements and restrictions herein granted are hereby imposed in perpetuity, shall inure to the benefit of the Conservation Commission of the City of Boston and shall be binding upon Grantor (and those claiming by, through or under Grantor) for so long as Grantor owns the Land, and thereafter upon the successive owners of the Land, and those claiming by, through or under them.

IN WITNESS WHEREOF, BLAKE ESTATES ASSOCIATES has caused
this instrument to be executed, acknowledged, and delivered this
day of _____, 1978.

BLAKE ESTATES ASSOCIATES

By _____
A General Partner

Hereunto Duly Authorized

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

, 1978

Then personally appeared the above-named _____,
to me known to be a General Partner of BLAKE ESTATES ASSOCIATES,
and acknowledged the foregoing instrument to be his free act and
deed, and the free act and deed of said BLAKE ESTATES ASSOCIATES.

Notary Public

My Commission Expires: _____

I hereby certify that the foregoing Conservation Restriction
has been approved by _____, Secretary of
Environmental Affairs, for the Commonwealth of Massachusetts, on
_____, 1978.

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

, 1978

Then personally appeared the above-named _____,
_____ of the Office of Environmental Affairs, and acknowl-
edged the foregoing instrument to be his free act and deed on
behalf of the Office of Environmental Affairs.

Notary Public

My Commission Expires: _____

EXHIBIT A

DESCRIPTION OF CONSERVATION RESTRICTION

AREA 1

Beginning at a point on the easterly sideline of Hyde Park Avenue at the southwesterly corner of land herein described;

Thence, N29-36-28E, 109.00 feet by Hyde Park Avenue;

Thence, S86-25-51E, 56.09 feet;

Thence, N84-18-57E, 68.77 feet;

Thence, N77-52-39E, 80.68 feet;

Thence, N66-16-18E, 87.87 feet;

Thence, N83-42-06E, 210.00 feet;

Thence, N79-19-02E, 78.31 feet, the last six courses by the northerly top of bank of Mother Brook;

Thence, S57-19-18W, 29.60 feet;

Thence, S83-24-28W, 28.00 feet;

Thence, S6-35-32E, 68.00 feet;

Thence, N83-24-28E, 3.00 feet;

Thence, S6-35-32E, 39.00 feet;

Thence, S88-44-50W, 277.35 feet;

Thence, S29-59-28W, 40.00 feet;

Thence, S85-37-21W, 289.38 feet to the point of beginning.

Containing 52,972 square feet as shown on a plan by R. E. Cameron & Associates, Inc., dated November 17, 1978.

DESCRIPTION OF CONSERVATION RESTRICTION

AREA 2

Beginning at a point on the easterly sideline of Hyde Park Avenue at the northwesterly corner of "Area 1", above described;

Thence, S86-25-51E, 56.09 feet;

Thence, N84-18-57E, 68.77 feet;

AREA 2 - Continued

Thence, N77-52-39E, 80.68 feet;

Thence, N66-16-18E, 87.87 feet;

Thence, N83-42-06E, 210.00 feet;

Thence, N79-19-02E, 78.31 feet, the last six courses by the northerly top of bank of Mother Brook;

Thence, N7-44-06W, 30.04 feet;

Thence, S79-19-02W, 78.71 feet;

Thence, S83-42-06W, 213.45 feet;

Thence, S66-16-18W, 89.42 feet;

Thence, S77-52-39W, 75.95 feet;

Thence, S84-18-57W, 64.65 feet;

Thence, N86-25-51W, 39.01 feet to Hyde Park Avenue;

Thence, S29-36-28W, 33.39 feet by Hyde Park Avenue to the point of beginning.

Being a 30-foot strip northerly of the top of bank of Mother Brook and containing 17,145 square feet as shown on a plan by R. E. Cameron & Associates, Inc., dated November 17, 1978.

3708
12/28

MEMORANDUM

DECEMBER 28, 1978

TO: BOSTON REDEVELOPMENT AUTHORITY

FROM: ROBERT J. RYAN, DIRECTOR

SUBJECT: REPORT AND DECISION ON THE CHAPTER 121A
APPLICATION OF BLAKE ESTATES ASSOCIATES

On December 14, 1978, the Authority conducted a public hearing with respect to the above-captioned Application. At that meeting the Board heard a presentation by the Applicants.

The Project consists of the acquisition of 4.647 acres of vacant land from Seimens-Allis, Inc. and the construction of 175 units of housing for low-income elderly and handicapped persons. 90% of the units will receive Section 8 rental assistance.

The staff has examined the Application and found that it contained sufficient evidence in support of the Project to permit the Authority to make those findings and determinations necessary to proceed with the approval of the Project.

It is therefore recommended that pursuant to Chapter 121A of the General Laws, the Authority adopt the Report and Decision approving the Project.

An appropriate Vote follows:

VOTED: That the document presented at this meeting entitled: "Report and Decision on the Application of Blake Estates Associates for the Authorization and Approval of a Project under Massachusetts General Laws (Ter.Ed.) Chapter 121A as Amended, and Chapter 652 of the Acts of 1960, to be Undertaken and Carried Out by a Limited Partnership formed under M.G.L. Chapter 109, and Approval to Act as an Urban Redevelopment Limited Partnership Under said Chapter 121A" be and is hereby approved and adopted.